HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A No.4087 of 2001
Date of decision : 11.12.2006.

Ram Kishan **.....Appellant**

versus

Smt.Birhama and another **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.C.B.Goel, Advocate for the appellant.
Mr.Pankaj Jain, Advocate for the respondents

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ORDER

HEMANT GUPTA, J. (Oral)

The challenge in the present appeal is to the judgment and decree passed by the Courts below in a suit for permanent injunction. Both the Courts below have dismissed the suit filed by the plaintiff holding that the plaintiff has failed to establish the identity of the property of which the plaintiff is claiming possession.

In appeal, the plaintiff moved an application for amendment of the plaint so as to correct the description of the suit property but the same was declined.

Earlier, the learned counsel for the appellant raised an argument that either plaintiff be permitted to correct the plaint or he be permitted to withdraw the suit with liberty to file a fresh suit on the same cause of action. Learned counsel for the respondents could not raise any meaningful argument to oppose the said prayer.

Since it is stated that the suit property could not be described correctly, I deem it appropriate to allow the plaintiff to withdraw the present suit with liberty to file a fresh suit on the same cause of action by way of correct description of the suit property.

The appeal stands disposed of in the above terms.

(HEMANT GUPTA)
JUDGE

December 11, 2006
**mohinder*